

HOUSE No. 1379

Mr. Petersen of Marblehead, petition of Douglas W. Petersen and others relative to redeemable containers under the “bottle law”, so-called. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

PETITION OF:

Douglas W. Petersen	Kathleen M. Teahan
Alice K. Wolf	Stephen Kulik
Patricia A. Walwrath	David Paul Linsky
Anthony J. Verga	Ellen Story
Timothy J. Toomey, Jr.	Kay Khan
Michael E. Festa	Andrea F. Nuciforo, Jr.
Patricia D. Jehlen	Cory Atkins
Deborah D. Blumer	Mark J. Carron
Frank I. Smizik	Karen E. Spilka
Martha M. Walz	Stephen M. Brewer
Theodore C. Speliotis	Robert M. Koczera
J. James Marzilli, Jr.	Alice Hanlon Peisch
Ruth B. Balser	

In the Year Two Thousand and Five.

AN ACT TO IMPROVE RECYCLING RATES IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 321 of Chapter 94 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking out the definitions for “beverage” and “beverage con-
4 tainer,” and inserting in place thereof the following definitions:—
5 “Beverage,” soda water or similar carbonated soft drinks; non-
6 carbonated beverages including mineral water, flavored and unfla-
7 vored water, spring water, and other water beverages, tea, sports
8 drinks, isotonic drinks; beer and other malt beverages; wine and

9 wine-based drinks; spirits and spirit-based drinks; hard cider; and
10 all other non-alcoholic carbonated and noncarbonated drinks in
11 liquid form intended for human consumption except milk and bev-
12 erages that are primarily derived from dairy products, infant for-
13 mula, and FDA-approved medicines.

14 “Beverage container,” any sealable bottle, can, jar, or carton
15 which is primarily composed of glass, metal, plastic, or any com-
16 bination of those materials and is produced for the purpose of con-
17 taining a beverage, which, at the time of sale, contains four liters
18 or less of a beverage. This definition shall not include containers
19 made of paper-based biodegradable material and aseptic multi-
20 material packaging.

1 SECTION 2. Section 321 of Chapter 94 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 adding, after the definition of “Plastic bottle” the following defini-
4 tion:—

5 “Redemption center,” any business whose primary purpose is
6 the redemption of beverage containers and is not ancillary to any
7 other business, and that employs at least two full-time employees
8 who spend at least seventy-five percent of their time in the busi-
9 ness of collecting and redeeming empty beverage containers.

1 SECTION 3. Section 321 of Chapter 94 of the General Laws,
2 as appearing in the 2002 Official Edition, in the definition for
3 “Plastic Bottle”, striking “sixteen fluid ounces” and inserting the
4 words “one point five ounces”.

1 SECTION 4. Section 321 of Chapter 94 of the General Laws,
2 as appearing in the 2002 Official Edition, in the definition for
3 “Rigid Plastic Container”, striking “eight ounces” and inserting
4 the words “one point five ounces”.

1 SECTION 5. Section 321 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding, after the definition
3 of “Reusable beverage container,” the following definition:—

4 “Small dealer,” any person, including any operator of a vending
5 machine, employing the equivalent of ten full time employees or
6 less, who engages in the sale of beverages in beverage containers
7 to consumers in the commonwealth.

1 SECTION 6. Section 323 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding in line 30 after the
3 letter “(e),” the following:—

4 The executive office of environmental affairs shall promulgate
5 rules and regulations for the licensure of redemption centers, and
6 may set fees for the licensing of such redemption centers.

1 SECTION 7. Section 323, paragraph (a), of Chapter 94 of the
2 General Laws, as appearing in the 1998 Official Edition, is hereby
3 amended by striking out in line the words “the refund value” and
4 inserting in place thereof the words “the full refund value”.

1 SECTION 8. Section 323, paragraph (b), of Chapter 94 of the
2 General Laws, as appearing in the 1998 Official Edition, is hereby
3 amended by striking out the words “one cent” and inserting in
4 place thereof the words “three cents” and placing the following
5 sentence at the end of the paragraph. “The handling fee shall be
6 reviewed semi-annually by the Secretary of the Executive Office of
7 Environmental Affairs and adjustments made to reflect increases in
8 costs incurred by redemption facilities.”

1 SECTION 9. Section 323, paragraph (c), of Chapter 94 of the
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by striking out in the words “one cent” and inserting in
4 place thereof the words “three cents” and placing the following
5 sentence at the end of the paragraph. “The handling fee shall be
6 reviewed semi-annually by the Secretary of the Executive Office
7 of Environmental Affairs and adjustments made to reflect
8 increases in costs incurred by redemption facilities.”

1 SECTION 10. Section 323 of Chapter 94 of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 striking out in line 69 the words “ten cases of twenty-four empty
4 beverage containers each,” and inserting in place thereof the
5 words “ninety-six empty beverage containers.”

1 SECTION 11. Section 323 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding in line 73, after the
3 word “civil,” the words “or administrative.”

1 SECTION 12. Section 323 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding in line 73 after the
3 word “twenty-seven.” the following:—

4 At each location where persons tender containers for redemp-
5 tion, dealers and redemption centers shall conspicuously display a
6 sign in letters that are at least one inch in height with the
7 following information: “WARNING: Persons tendering containers
8 for redemption that were not originally purchased in Massachu-
9 setts may be subject to a fine of the greater of one hundred dollars
10 per container or twenty-five thousand dollars for each tender of
11 containers. (G.L. c. 94, Section 327).”

1 SECTION 13. Section 323 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding after the last para-
3 graph of said section, the following:—

4 (j) A person who tenders beverage containers totaling more
5 than twenty-five dollars in refund value on any one business day
6 must sign a statement as described in this paragraph. A redemp-
7 tion center or dealer must obtain a signed statement from each
8 person who tenders beverage containers totaling more than
9 twenty-five dollars in redemption value on any one business day.
10 The statement must be on a form supplied by the executive office
11 of environmental affairs and must include the total refund value of
12 containers redeemed and the name, address and signature of the
13 person who tenders the containers. The statement must inform the
14 person of the penalty for knowingly tendering containers not pur-
15 chased in Massachusetts. The statement must also inform the
16 person that, by signing the statement, that person certifies that to
17 the best of that person’s knowledge the containers were purchased
18 in Massachusetts. The redemption center or dealer shall file all
19 statements required under this paragraph quarterly with the
20 department of environmental protection and make the statements
21 available to the department or the executive office of environ-
22 mental affairs or any other person authorized to enforce this law
23 upon request.

1 SECTION 14. Section 326 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding in line three after
3 the word “inclusive,” the following:— and paragraph (i).

1 SECTION 15. Section 326 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding in line 7 after the
3 word “sections,” the following:—

4 Said secretary shall have the discretion to exempt small dealers,
5 as defined in section 321 of this chapter, from the provisions of
6 said sections as pertaining to wine and wine-based drinks, spirits
7 and spirit-based drinks, hard cider, and all non-carbonated drinks
8 until January first, two thousand and six, in order to allow small
9 dealers sufficient time to comply with these additional require-
10 ments.

1 SECTION 16. Section 326 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by inserting after the word
3 “feasible” in line 29 the following paragraph:—

4 The secretary shall file a report on implementation of the
5 “Bottle Bill,” so-called, annually with the joint committee on
6 energy, joint committee on natural resources and agriculture, and
7 the house and senate committees on ways and means on or before
8 December thirty-first of each year. The report shall contain, but
9 not be limited to, information concerning state wide redemption
10 rates of beverage containers as defined herein, an evaluation of
11 the bottle bill program, and as necessary, suggestions to improve
12 the program.

1 SECTION 17. Section 327 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by inserting after the first
3 paragraph the following new paragraphs:—

4 The department of environmental protection shall have
5 authority to enforce the provisions of sections three hundred and
6 twenty-one; three hundred and twenty-two; paragraphs (a) through
7 (f) inclusive, and paragraph (i) of section three hundred and
8 twenty-three; three hundred and twenty-three A; three hundred
9 and twenty-three F; three hundred and twenty-four; and three hun-
10 dred and twenty-five. Any bottler, distributor, redemption center,
11 or dealer who violates any of the foregoing provisions shall be
12 subject to an administrative penalty for each violation of not more
13 than one thousand dollars.

14 The department of revenue shall have authority to enforce the
15 provisions of paragraphs (g) and (h) of section three hundred and

16 twenty-three and sections three hundred and twenty-three B to
17 three hundred and twenty-three E, inclusive. Any bottler, distrib-
18 utor, redemption center, or dealer who violates any of the fore-
19 going provisions shall be subject to an administrative penalty for
20 each violation of not more than one thousand dollars.

1 SECTION 18. Section 327 of Chapter 94 of the General Laws,
2 as so appearing, is hereby amended by adding after the word
3 “civil” in line 14 the words “or administrative.”

1 SECTION 19. This act shall take effect on December first, two
2 thousand and five.